charge to me is reasonable I cannot complain that the charge to you was less, was the doctrine of the old cases. In *Schofield* v. *L. S. & M. S. Ry.*, 43 Ohio St. 571, the effect of this doctrine in building up the Standard Oil Company and in crushing its competitors, led the court severely to limit the doctrine. It was reviewed in *Cook* v. *C. R. I. & O. Ry.*, 81 Ia. 551, with the conclusion that carriers were not presumed to be in the business of "alms-giving". The only reasonable conclusion is that the less rate was reasonable, and the greater was too much. Judge Landis in *U. S.* v. *C. & A. Ry.*, 148 Fed. 646, took the ground that "no rate can possibly be reasonable that is higher than anybody else has to pay." Meantime statutes were taking the same direction and dealing with discriminating service as well as rates. They were not merely fixing a maximum rate, but were providing that there should be but one rate and one set of privileges for all in the same class. The main object of the acts of 1906 and 1910 was held to be to secure equality of treatment for all. *Adams Express Co.* v. *Crominger*, 226 U. S. 491. A newspaper editor must pay the same cash fare as other passengers, and cannot lawfully ride on a pass paid for by advertising. *McNeil* v. *D. & C. Ry. Co.*, 132 N. C. 510; *C. J. & L. Ry.* v. *U. S.*, 219 U. S. 486. Equally forbidden is the issue of a free pass in settlement of a claim for damages against a railroad. *L. & N. R. Co.* v. *Mattley*, 219 U. S. 467. Nor can a sheriff pay for his rides by his fees in suits in which the railroad was a party. In a recent case his removal from office was justified because he made such an arrangement. *Coco* v. *Oden* (La., 1918), 79 So. 287. An agreement to expedite a shipment is equally within the inhibition. *C. & A. Ry. Co.* v. *Kirby*, 225 U. S. 155; *Clegg* v. *St. Louis, etc. R. Co.*, 203 Fed. 971. See also previous notes, 13 MICH. L. REV. 514, 14 MICH. L. REV. 416. In a recent opinion, Mr. Justice Holmes thinks "the passion for equality sometimes leads to hollow formulas". In *Postal-Tel. Cable Co.* v. *Tonopah & Tide Water R. Co.* (U. S. Sup. Ct., Jan. 20, 1919), he finds contracts for exchange services between telegraph and railroad companies, whether on or off the line, are not within the Act of June 18, 1910, c. 309, Sec. 7, thus reversing the ruling of the Interstate Commerce Commission, and affirming, 241 Fed. 162, 249 Fed. 664.

CRIMINAL LAW—CONSTRUCTIVE INTENT—INVOLUNTARY MANSLAUGHTER.—Defendant sold to deceased "cream soda" containing 38% wood alcohol, which deceased imbibed with fatal effect. The trial court charged, in effect, that if defendant, without knowledge of its poisonous quality, put wood alcohol in the soda with intent to make an intoxicating liquor to sell in violation of the laws of the state, he was guilty of manslaughter, and of this crime the jury found him guilty. *Held*, no error, the sale of intoxicating liquor being "not only *malum in se*, but *malum prohibitum*." *State* v. *Keever*, (N. Car., 1919), 97 S. E. 727.

It is commonly held that, in order that intent to do one act may supply the criminal intent necessary for conviction of doing another and unintended act, it is essential that the act intended be wrongful in itself, not merely prohibited by law. In other words, although no question of moral culpability is involved where one intentionally does a prohibited act (*Reynolds* v. *U. S.*,

98 U. S. 145; *U. S.* v. *Harmon,* 45 Fed. 414), where such act is done unintentionally there must be moral culpability to constitute crime. *Reg.* v. *Franklin,* 15 Cox C. C. 163; *Com.* v. *Adams,* 114 Mass. 323; *State* v. *Horton,* 139 N. C. 588; *Estell* v. *State,* 51 N. J. L. 182. The distinction must rest, on the one hand, on policy opposed to the admission in normal cases of the ethical issue, and, on the other hand, to repugnance for "constructive crime." The doctrine injects into the law a very broad question of ethics, upon which reasonable men are bound to differ. The Supreme Court of Connecticut seems to have differed from that of North Carolina upon the moral aspects of the liquor traffic, for, although they held intent to sell liquor without a license supplied the necessary intent for conviction of selling adulterated liquor, they put it upon a repudiation of the *malum in se* doctrine, at least where the act intended is criminal and not merely tortious. *State* v. *Stanton,* 37 Conn. 421. Looking more closely at the principal case, it will be seen that it may be said to rest, not upon the ground that the sale of liquor is immoral, but upon the narrower ground that the sale of liquor with knowledge that such sale is prohibited—that is to say, deliberate flouting of the law—is immoral. It will also be apparent that conviction might have rested upon the principle of negligence, that one is bound to know what is a matter of common knowledge. As Justice Holmes said in a similar case, "Common experience is necessary to the man of ordinary prudence, and a man who assumes to act as the defendant did must have it at his peril." *Com.* v. *Pierce,* 138 Mass. 165. See also, *White* v. *State,* 84 Ala. 421; *State* v. *Hardie,* 47 Ia. 647.

DAMAGES—PREDISPOSITION TO DISEASE—PROXIMATE CAUSE.—Plaintiff fell as result of the defendant's negligence. The evidence tended to show that prior to the accident the plaintiff was in apparently good health but had a latent tendency to ulcer of the stomach due to excessive acidity. After the injury an ulcer developed. Defendant asked for an instruction negativing a recovery since the injury merely caused an acceleration of the ulcer and there was no evidence to show how much it was accelerated. *Held,* that the instruction was properly refused. "Where, as here, the latent disease or weakness did not cause pain, suffering, etc. to the plaintiff but such condition plus the fall caused such pain, the fall and not the latent condition is the proximate cause and the plaintiff is entitled to recover the entire damage shown to have resulted from such fall." *Hahn* v. *Delaware, L. & W. R. Co.* (N. J., 1918), 105 Atl. 459.

There is a remark in *Dulieu* v. *White* [1901], 2 K. B. 669, 679, which is very pertinent. In that case the defendant suffered a miscarriage as a result of the fright caused by the defendant's negligence. The court there said that it was immaterial that the defendant did not know her condition: "What does the fact matter? If a man is negligently run over or otherwise negligently injured in his body it is no answer to the sufferer's claim for damages that he would have suffered less injury, or no injury at all, if he had not had an unusually thin skull or an unusually weak heart." The situation in the principal case is precisely the same. In *Vosburg* v. *Putney,* 80 Wis.